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FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			CHEN, SHIN HON	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/887,150

Filing Date: June 21, 2001

Appellant(s): FERNANDO ET AL.

Oleg F. Kaplun
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 10/3/05 appealing from the Office action mailed on 6/30/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: New ground of rejection for claim 3.

NEW GROUND(S) OF REJECTION

Claim 3 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bilger et al. U.S. Pat. No. 6317835.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,317,835	BILGER ET AL.	11-2001
6,715,078	CHASKO ET AL.	3-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-4, and 6 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bilger et al. U.S. Pat. No. 6317835.

As per claim 1, Bilger discloses a data-entry apparatus comprising: a device for entering data (Bilger: column 1 lines 45-62); a display for displaying information confirming the security of the data-entry apparatus (Bilger: column 2 lines 11-56; column 5 lines 1-6); and an encryption circuit (Bilger: column 4 lines 8-38), communicatively coupled to the data-entry device and the display (Bilger: column 4 lines 8-38).

As per claim 2, Bilger discloses the data-entry apparatus of claim 1. Bilger further discloses wherein the device for entering data comprises a touch pad (Bilger: column 1 lines 45-62).

As per claim 3, Bilger discloses the apparatus of claim 1. Bilger further discloses the apparatus comprising a second display, and wherein the first and second displays are physically separate (Bilger: column 2 lines 15-16 and figure 1: auxiliary display).

As per claim 4, Bilger discloses the apparatus of claim 1. Bilger further discloses the apparatus comprising a second display, and wherein the first and second displays are under the control of respective first and second controllers that in turn are communicatively coupled to and under the control of the encryption circuit (Bilger: column 1 lines 45-62: the apparatus provides encrypted data and non-encrypted data based on user's decision and the display will change accordingly).

As per claim 6, Bilger discloses a method for accepting data on a data-entry apparatus, the method comprising: refraining from displaying information asserting a data-entry device's ability to securely receive data (Bilger: column 1 lines 45-62; column 2 lines 11-39); then preparing to encrypt data received on the data-entry device (Bilger: column 5 lines 7-37); then displaying information asserting the data-entry device's ability to securely receive data (Bilger: column 5 lines 7-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilger et al. U.S. Pat. No. 6317835 in view of Chasko et al. U.S. Pat. No. 6715078.

As per claim 5, Bilger discloses the apparatus of claim 1. Bilger does not explicitly disclose wherein the displayed information comprises an icon. However, Chasko discloses that limitation (Chasko: column 2 line 48 – column 3 line 4). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Chasko within the system of Bilger because displaying icon for user to enter is well known in the art and it is inherent for touch screen devices to provide icons so that users can select options.

(10) Response to Argument

1. **The rejection of claims 1-4 and 6 are under 35 USC 102(e) as being anticipated by Bilger.**

a. **Regarding appellant's argument, appellant argues that the Bilger reference does not disclose a display for displaying information confirming the security of the data-entry apparatus.**

Examiner respectfully disagrees. Bilger clearly discloses the PIN entry device allows the selection of Clear Mode and Encrypted Mode which allows the user to confirm the security of the data-entry apparatus by displaying a PIN pad upon entering PIN entry/secure mode (Bilger: column 1 lines 45-62; column 5 lines 1-31: the PED allows users to confirm that the device can take encrypted input and non-encrypted input based on the information/PIN pad displayed on the screen; column 6 lines 17-37). Therefore, display of the PIN pad allows users to confirm that the device is ready to take confidential data because the PIN pad is only displayed when the device is in “PIN mode” or encrypted mode, this is interpreted by the examiner as being the secure mode since the user knows that the device is in a secure mode when the keypad is displayed. On the other hand, appellant agrees that the touch screen enters the PIN entry mode by displaying a PIN pad (See Appeal Brief: page 4). Therefore, display of the PIN pad is used to confirm that the data-entry apparatus is ready to encrypt data.

b. **Furthermore, appellant argues that the Bilger patent relates to securing communication between the touch screen and a recipient of the PIN information.**

Examiner respectfully disagrees. Bilger not only able to encrypt data input by users, it also notifies the user that the system is ready to encrypt data by displaying PIN pad (Bilger: column 6 lines 35-39).

- c. **Furthermore, appellant argues that the display of a PIN pad is insufficient to indicate, by itself, that the T-PED (PIN entry device) has entered the encrypted PIN mode successfully.**

Examiner respectfully disagrees. Bilger discloses that the system ensures that no fraudulent content is introduced and the operation mode are properly executed (Bilger: column 7 lines 27-46) so that user can be assured that the device is in secure mode upon display of PIN pad. Therefore, the display of PIN pad provides users with certain confidence that the data-entry apparatus has entered secure mode successfully.

- d. **Furthermore, appellant argues that the system disclosed by Bilger does not constitute a check to ensure that the system has not been compromised.**

Examiner respectfully disagrees. Bilger discloses that the system can be secured by using cryptography and policy to insure that no fraudulent content is introduced, the system should be carefully guarded and periodically reviewed for integrity, and the operation modes are properly executed (Bilger: column 7 lines 27-46) as described above. Therefore, the display of PIN pad provides certain confidence that the device is ready to take sensitive information. Otherwise, if the PIN pad is not displayed, the user knows that the device is not in a secure mode (Bilger's invention ensures operation in a protected secure mode by avoiding a hacker from circumventing the security: column 7 lines 28-46).

e. **Furthermore, appellant argues that the present invention displays the security icon only after the VPPR cue is verified by the encryption circuit, indicating that the data-entry apparatus has been determined to be secure.**

However, the claims are silent on the VPPR feature to confirm the security of the data-entry apparatus. The claims only recite a display for displaying information for confirming the security of the data-entry apparatus. Therefore, the argument is moot.

2. The rejection of claim 3 under 35 USC 103(a) as being obvious over Bilger in view of White.

Claim 3 is now rejected as being anticipated by Bilger. See (9) Ground of Rejection.

3. The rejection of claim 5 under 35 USC 103(a) as being obvious over Bilger in view of Chasko.

Appellant argues that “none of these icons is a security icon. That is, the icons are not used to indicate the security status of the CTT”.

However, the claim recites the displayed information comprise an icon. The Chasko reference is relied upon to show that icons can be numbers and letters as the ones on a PIN pad (Chasko: column 2 line 48 – column 3 line 4). Furthermore, the claim recites an icon, not a security icon. Therefore, appellant’s argument is respectfully traversed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above.

Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent

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applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Shin-Hon Chen 

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:


Kim Vu

Christopher Revak



Primary Examiner
AU213)

1/4/06


PETER WONG, DIRECTOR
TECHNOLOGY CENTER 2100